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JAN 26

Re: Consent Order Modification for TSCA PMN P89-632

Dear Mr. Schroer:

This letter constitutes an official modification of the terms of the Toxic Substances Control Act (TSCA) §5(e) Consent Order for Pre-Manufacture Notice (PMN) P89-632. As discussed with Roy Seidenstein of my staff, this modification responds to your December 3, 2009, request to amend the Significant New Use Rule (SNUR) at 40 CFR 721.7280, which governs the chemical substance that was the subject of P89-632. You requested that this SNUR exempt mixtures of the substance when the substance is completely bound in the polymer matrix.

Your request states that "The primary route of exposure for this substance is through inhalation of dust while manufacturing and processing. The substance is added to molten polymer resins, which are then extruded into pellets or films for further processing or distribution. Once the product is blended into the plastic, there is no further risk of exposure to the dust. This was recognized by the Agency when the original 5(e) Consent Order (P-89-632) was issued. See page 22 paragraph (a)(1) of the Order that states 'Not further distribute the PMN substance to any other person until the PMN substance has been completely bound in the polymer matrix.'" That clause in the Distribution section of the Consent Order is a stipulation to which your customers must agree before your company is allowed to distribute the PMN substance to those customers. Your request then goes on to mention a more recent 5(e) Consent Order for a similar substance which contains a generic across the board exemption from all the restrictions in that Consent Order: "The requirements of this Order do not apply to quantities of the PMN substance that have been completely bound into the polymer matrix." That broader exemption applies not only to distribution to customers, but to all restrictions on your company imposed by the Consent Order.

EPA agrees that when this PMN substance is completely bound in the polymer matrix, exposures and risks are adequately mitigated. In fact, EPA believes this is true for both inhalation and dermal exposures. ~~CONCURRENCE~~ EPA is willing to extend this exemption

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SURNAME	Schroer	Allen	Schroer				
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It is EPA's policy that a SNUR and a 5(e) Consent Order that regulate the same chemical should impose comparable protective terms and conditions. Thus, before EPA amends the SNUR as you have requested, EPA needs to first amend the corresponding 5(e) Consent Order.

Therefore, EPA is hereby modifying the above-referenced Consent Order to include the following new language:

SCOPE AND EXEMPTIONS

(a) The requirements of this Order do not apply to quantities of the PMN substance after they have been completely incorporated into the polymer matrix.

This modification is effective as of the date of this letter. All other terms and conditions remain the same. The Agency plans to amend the corresponding SNUR at 40 CFR 721.7280 to incorporate this same exemption.

If you have further comments or questions, please contact Roy Seidenstein at 202-564-9274.

Sincerely,

Jim Willis, Director
Chemical Control Division (7405M)